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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. CR 16-00440 WHA
Plaintiff,)	STIPULATION REGARDING RESTITUTION
v.)	
YEVGENIY ALEXANDROVICH NIKULIN,)	
Defendant.)	

It is hereby stipulated by and between counsel for the United States and counsel for the defendant Yevgeniy Nikulin as follows:

1. Defendant was convicted by a jury following trial on all counts in the Indictment.
2. Restitution is authorized in this case under the Mandatory Victims Restitution Act, 18 U.S.C. § 3663A, which mandates restitution for “crimes against property” under Title 18 in which an identifiable victim has suffered a pecuniary loss.
3. In connection with the sentencing proceedings, four entities, LinkedIn, Dropbox, Formspring, and Automattic, submitted statements describing their pecuniary losses. Based on the information in those statements, as well as the testimony and evidence introduced at trial, the Probation Office and the United States recommended that the Court award restitution of \$1,734,000, divided

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1 between each of the four entities. At sentencing in this matter, the Court awarded \$1,734,000 in
2 restitution to the four victims. The restitution award is set out in an Amended Judgment, ECF No. 288.

3 4. Defendant filed an appeal which challenged his conviction, the loss amount used for
4 purposes of calculating the Sentencing Guidelines, and the restitution award. The Ninth Circuit, in an
5 unpublished memorandum disposition, affirmed the conviction and sentence, but reversed the restitution
6 award, concluding that the evidence was insufficient to support the award. ECF No. 330. The court
7 found that the evidence in support of the restitution award did not satisfy the requirement that “the
8 government provide ‘a complete accounting of the losses to each victim’ to ‘the extent practicable,’ or
9 provide ‘evidence or proof that all costs incurred were directly related to’ defendant’s offenses.”

10 5. Counsel are in agreement that the testimony and evidence introduced at trial have proven
11 at least a pecuniary loss of \$5,000 in costs directly related to defendant’s offenses as to LinkedIn,
12 Dropbox, and Formspring sufficient to meet the standard set forth by the Ninth Circuit in its unpublished
13 memorandum disposition.

14 6. Following discussions between the government and the victims, the government has
15 concluded that it will not be practicable to meet its burden to prove additional pecuniary loss as defined
16 by the Ninth Circuit in its unpublished memorandum disposition.

17 7. Counsel for the United States has consulted with Probation Officer Kyle Pollack, who
18 does not object to the proposed resolution requested below.

19 8. A Status Conference re Restitution is scheduled for August 2, 2022, at 12:30 pm. Counsel
20 are in agreement that, at the hearing, the Court should order an award of \$5,000 in restitution each to
21 LinkedIn, Dropbox, and Formspring, and set defendant’s payments according to the schedule in the
22 Amended Judgment, and that the Court should enter a Second Amended Judgment imposing such

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1 restitution. Consistent with the victims' previous requests, the restitution payments should be payable to
2 the Crime Victims' Fund.

3 IT IS SO STIPULATED.

4 Respectfully submitted,

5 STEPHANIE L. HINDS
6 United States Attorney

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8 Dated: _____

9 _____/s/
10 MICHELLE J. KANE
11 Assistant United States Attorney

12
13 Dated: _____

14 _____/s/
15 ADAM GASNER
16 Attorney for Defendant